

**UNITED STATES DEPARTMENT OF COMMERCE****Patent and Trademark Office**

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
08/7579,395	12/27/95	SWAIN	W

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MM41/0608

EXAMINER
KOBERT, R

ART UNIT	PAPER NUMBER
2858	11

DATE MAILED: 06/08/98

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Art Unit: 2858

1. The reply filed on February 17, 1998 is not fully responsive to the prior Office action because of the following omission(s) or matter(s):

(A) Applicant has added and amended claims not in conformance with MPEP 714.22 which states:

714.22 Entry of Amendments, Directions for [R - 1]

>37 CFR 1.121. *Manner of making amendments.*

(a) Erasures, additions, insertions, or alterations of the Office file of papers and records must not be physically entered by the applicant. Amendments to the application (excluding the claims) are made by filing a paper (which should conform to § 1.52), directing or requesting that specified amendments be made. The exact word or words to be stricken out or inserted by said amendment must be specified and the precise point indicated where the deletion or insertion is to be made.

(b) Except as otherwise provided herein, a particular claim may be amended only by directions to cancel or by rewriting such claim with underlining below the word or words added and brackets around the word or words deleted. The rewriting of a claim in this form will be construed as directing the cancellation of the original claim; however, the original claim number followed by the parenthetical word "amended" must be used for the rewritten claim. If a previously rewritten claim is rewritten, underlining and bracketing will be applied in reference to the previously rewritten claim with the parenthetical expression "twice amended," "three times amended," etc., following the original claim number.*

(c) A particular claim may be amended in the manner indicated for the application in paragraph (a) of this section to the extent of corrections in spelling, punctuation, and typographical errors. Additional amendments in this manner will be admitted provided the changes are limited to (1) deletions and/or (2) the addition of no more than five words in any one claim. Any amendment submitted with

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instructions to amend particular claims but failing to conform to the provisions of paragraphs (b) and (c) of this section may be considered non - responsive and treated accordingly.

(d) Where underlining or brackets are intended to appear in the printed patent or are properly part of the claimed material and not intended as symbolic of changes in the particular claim, amendment by rewriting in accordance with paragraph (b) of this section shall be prohibited.

(e) In reissue applications, both the descriptive portion and the claims are to be amended by either (1) submitting a copy of a portion of the description or an entire claim with all matter to be deleted from the patent being placed between brackets and all matter to be added to the patent being underlined, or (2) indicating the exact word or words to be stricken out or inserted and the precise point where the deletion or insertion is to be made. Any word or words to be inserted must be underlined. See § 1.173.

(f) Proposed amendments presented in patents involved in reexamination proceedings must be presented in the form of a full copy of the text of (1) each claim which is amended and (2) each paragraph of the description which is amended. Matter deleted from the patent shall be placed between brackets and matter added shall be underlined. Copies of the printed claims from the patent may be used with any additions being indicated by carets and deleted material being placed between brackets. Claims must not be renumbered and the numbering of the claims added for reexamination must follow the number of the highest numbered patent claim. No amendment may enlarge the scope of the claims of the patent. No new matter may be introduced into the patent.

The term "brackets" set forth in 37 CFR 1.121(b) means angular brackets, thus: []. It does not encompass and is to be distinguished from parentheses (). Any amendment using parentheses to indicate canceled matter in a claim rewritten under 37 CFR 1.121(b) may be held nonresponsive in accordance with 37 CFR 1.121(c).

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Where, by amendment under 37 CFR 1.121(b), a dependent claim is rewritten to be in independent form, the subject matter from the prior independent claim should be considered to be "added" matter and should be underlined.

37 CFR 1.121(f) requires a complete copy of any new or amended claim when presented during reexamination proceedings. See MPEP § 2221, § 2250, and § 2266. Form Paragraphs 6.33 and 6.34 may be used to inform applicants if the amendments are not in proper format.

¶ 6.33 *Amendment to the Claims, 37 CFR 1.121*

The amendment to the claims has not been entered because it requests the addition of more than 5 words in any one claim. See 37 CFR 1.121(c) below:

(c) A particular claim may be amended in the examiner indicated in for the application in paragraph (a) of this section to the extent of corrections in spelling, punctuation, and typographical errors. Additional amendments in this manner will be admitted provided the changes are limited to: (1) deletions and/or (2) the addition of no more than five words in any one claim. Any amendment submitted with instructions to amend particular claims but failing to conform to the provisions of paragraphs (b) and (c) of this section may be considered nonresponsive and treated accordingly.

The amendments to the claims should be made in accordance with 37 CFR 1.121(b) which states:

(b) Except as otherwise provided herein, a particular claim may be amended only by directions to cancel or by rewriting such claim with underlining below the word or words added and brackets around the word or words deleted. The rewriting of a claim in this form will be construed as directing the cancellation of the original claim; however, the original claim number followed by the parenthetical word "amended" must be used for the rewritten claim. If a previously rewritten claim is rewritten, underlining and bracketing will be applied in reference to the previously rewritten claim with the parenthetical

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expression "twice amended" "three times amended", etc., following the original claim number.

Applicant is given a ONE MONTH TIME LIMIT from the date of this letter, or until the expiration of the period for response set in the last Office action whichever is longer, to complete the response. NO EXTENSION OF THIS TIME LIMIT MAY BE GRANTED UNDER EITHER 37CFR 1.136(a) OR (b), but the period for response set in the last office action may be extended up to a maximum of six months.

¶ *6.34 Amendment of the Claims, Brackets or Underlining Cannot Be Used*

The claims of this application contain underlining or brackets that are intended to appear in the printed patent or are properly part of the claimed material. The brackets or underlining are not intended to indicate amendments or changes in the claims. Under these conditions, proposed amendments to the claims may not be made by underlining words added or by bracketing words to be deleted. Accordingly, the proposed amendment to the claims has not been entered. See 37 CFR 1.121(d).

(B) Applicant has presented additional claims without payment of fees for filing these additional claims:

The amendment filed February 17, 1998 has an informality involving the payment of fees for claims. The amendment is considered an incomplete response since applicant has failed to remit (or authorize charge to a Deposit Account) the fee as indicated on the attached Patent Application Fee Determination Record. Remittance of \$104.00 or authorization to charge that amount to a Deposit Account is due within the period set below. (See attached Patent Application Fee Determination Record; Form PTO-875)

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2. Applicant appears to be misinterpreting "Invention" numerals depicted in the restriction requirement. Numerals I, II and III are not intended to be 1, 11 and 111, rather these are intended to be Roman Numerals I, II, and III written in "Arial" typeset.

Applicant is given a ONE month time limit from the date this letter, or until the expiration of the period for response set in the last Office action, whichever is longer, to complete the response. NO EXTENSION OF THIS TIME LIMIT MAY BE GRANTED UNDER EITHER 37 CFR 1.136(a) OR (b) but the period for response set in the last Office action may be extended up to a maximum of six months .<

See 37 CFR 1.111. Since the above-mentioned reply appears to be *bona fide*, applicant is given **ONE (1) MONTH or THIRTY (30) DAYS** from the mailing date of this notice, whichever is longer, within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Russell Kobert whose telephone number is (703) 308-5222.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 305-4900.


Russell M. Kobert
Patent Examiner
Group Art Unit 2858
May 22, 1998


Josie Ballato
JOSIE BALLATO
PRIMARY EXAMINER
GROUP 3100-2858
S/22/98

PATENT APPLICATION FEE DETERMINATION RECORD

Effective October 1, 1995

Application or Docket Number

579 395

CLAIMS AS FILED - PART I

	(Column 1)	(Column 2)
FOR	NUMBER FILED	NUMBER EXTRA
BASIC FEE		
TOTAL CLAIMS	13 minus 20 = *	
INDEPENDENT CLAIMS	5 minus 3 = *	
MULTIPLE DEPENDENT CLAIM PRESENT		

* If the difference in column 1 is less than zero, enter "0" in column 2

SMALL ENTITY	OR	OTHER THAN SMALL ENTITY	
RATE	Fee	RATE	
	375.00		750.00
OR		OR	x\$22=
x\$11=		OR	x78=
x39=	78	OR	+250=
+125=		OR	TOTAL
TOTAL	453		

CLAIMS AS AMENDED - PART II

	(Column 1)	(Column 2)	(Column 3)
AMENDMENT A	CLAIMS REMAINING AFTER AMENDMENT	HIGHEST NUMBER PREVIOUSLY PAID FOR	PRESENT EXTRA
Total	29	Minus	** 20 = 9
Independent	12	Minus	*** 5 = 1
FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM			
(Column 1)	(Column 2)	(Column 3)	

SMALL ENTITY	OR	OTHER THAN SMALL ENTITY	
RATE	ADDITIONAL FEE	RATE	
x\$11=	99		x\$22=
x39=	280		x78=
+125=			+250=
TOTAL ADDIT. FEE	379		TOTAL ADDIT. FEE

	(Column 1)	(Column 2)	(Column 3)
AMENDMENT B	CLAIMS REMAINING AFTER AMENDMENT	HIGHEST NUMBER PREVIOUSLY PAID FOR	PRESENT EXTRA
Total	31	Minus	** 29 = 2
Independent	24	Minus	*** 12 = 2
FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM			
(Column 1)	(Column 2)	(Column 3)	

RATE	ADDITIONAL FEE	RATE	ADDITIONAL FEE
x\$11=	22		x\$22=
x39=	82		x78=
+125=			+250=
TOTAL ADDIT. FEE	104		TOTAL ADDIT. FEE

	(Column 1)	(Column 2)	(Column 3)
AMENDMENT C	CLAIMS REMAINING AFTER AMENDMENT	HIGHEST NUMBER PREVIOUSLY PAID FOR	PRESENT EXTRA
Total	*	Minus	** =
Independent	*	Minus	*** =
FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM			
(Column 1)	(Column 2)	(Column 3)	

RATE	ADDITIONAL FEE	RATE	ADDITIONAL FEE
x\$11=			x\$22=
x39=			x78=
+125=			+250=
TOTAL ADDIT. FEE			TOTAL ADDIT. FEE

* If the entry in column 1 is less than the entry in column 2, write "0" in column 3.

** If the "Highest Number Previously Paid For" IN THIS SPACE is less than 20, enter "20."

*** If the "Highest Number Previously Paid For" IN THIS SPACE is less than 3, enter "3."

The "Highest Number Previously Paid For" (Total or Independent) is the highest number found in the appropriate box in column 1.